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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,741	02/05/2004	Ronald R. Smith	7463-34 CE12134JSW	5634

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

EXAMINER

BATAILLE, PIERRE MICHE

ART UNIT	PAPER NUMBER
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2186

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/772,741

Applicant(s)

SMITH ET AL.

Examiner

Pierre-Michel Bataille

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The present Office action is taken in response to applicant's communication filed January 03, 2007 responding to Non-Final Rejection dated October 05, 2006.

Applicant's amendments and/or arguments have been considered with the results that follow.

2. Claims 1-20 are now pending in the application under prosecution as claims 19 and 20 have been newly added.

Response to Arguments

3. Applicant's arguments filed January 3, 2007 have been fully considered but they are not persuasive for at least the following remarks.

Applicant argues that Nelson (US2003/0073497) fails to teach or suggests the sending of a signal over the air that indicate re-allocation of non-removable memory. Applicant's however notes that transmission can be done by either wireless or wireline communication. Nelson in the same line of thought describes dynamically verifying and allocating adequate memory space for downloading critical data information into the non-volatile random access memory (NV-RAM) in a gaming machine. The dynamically resizing memory allocations suit the requirements of any critical game transaction for a gaming machine. One of ordinary skill in the art would know of many portable gaming machine types available in the ten, twenty years or more.

Nelson discloses method of downloading a new game to a gaming machine to include a software client requesting new game code, the request being transmitted though use of a device interface such as a key pad, touch pad, or card reader of a gaming machine wherein the transmission may occur by either wireless or wireline communications. (See Par. 0037-0038]. Nelson discloses the function requests to include a request allocating or reallocating memory space, opening or closing files or data, and reading, writing, resizing, and moving of heap blocks within NV-RAM memory [Par. 0038].

Although nelson discloses that, in other instances, the new game code may be transmitted from a remote computing device (i.e., workstation, server, or the like) or by a portable device (i.e., laptop, PDA, handheld, or the like) that may communicate with the gaming machine, it is clear that the requirement of the claims are met by the teaching of method of downloading a new game to a gaming machine to include a software client requesting new game code, the request being transmitted though use of a device interface such as a key pad, touch pad, or card reader of a gaming machine wherein the transmission may occur by either wireless or wireline communications (See Par. 0037-0038].

Applicant's further argues that Nelson workstation does not equate to a base transmitter as claimed. Nelson's system covers well the feature of the claim recited in number 14, as Nelson discloses that the new game code may be transmitted from a

remote computing device (i.e., workstation, server, or the like) or by a portable device (i.e., laptop, PDA, handheld, or the like) that may communicate with the gaming machine, and such request or signal may be transmitted wirelessly [Par. 0037-0038]. More clarification defining the wireless base station or the cellular base station where multi-channel two-way radios are used in a location is required to remove the reference from reading upon the claims.

Applicant argues that Nelson fails to mention JAVA heap, as the examiner's conclusory OFFICIAL NOTICE is not appropriate. Please note that applicant, in remark page 7, reaffirms that JAVA heap are used in portable wireless devices which is commonly known to one of ordinary skill in the art. Nelson uses wireless gaming device with associated heap block or a random heap block corresponding required criteria of allocated blocks. Nelson teaches available heap blocks in memory resized to provide a potentially larger memory space for future critical data storage.

Applicant is invited to review the reference by Perez, cited herewith (US 2005/0060510) (Perez, Ricardo) featuring dynamic allocation of internal memory where an increase in run-time speed of mobile information device applets (MIDlets), i.e. small JAVA applications used in mobile devices, would improve the overall performance of a device. Perez discloses any methods or processes that make Java compilations more efficient in mobile devices could also benefit non-Java applications such as screen refresh rates for an application programming interface (API) of a digital camera.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 5-6, 8-17, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0073497 (Nelson).

With respect to claims 1, 10, and 14, Nelson discloses method and apparatus for dynamically allocating and deallocating memory space to accommodate either permanent or temporary storage in an NV-RAM, wherein a software client requests new game code with a request or test for adequate memory (function requests including a request allocating or deallocating memory space within NV-RAM memory), which follows dynamic resize of memory allocations (Fig. 2A; Fig. 4B; Par. 0016), the new game code may be transmitted from a remote computing device (i.e., workstation, server, or the like) or by a portable device (i.e., laptop, PDA, handheld, or the like) that may communicate with the gaming machine by either wireless or wireline communications [Par. 0037, Fig. 8B].

With respect to claims 10 and 14, in addition to the explanation above, this explanation covers a base transmitter corresponding to workstation, server, or

the like, reallocation of non-volatile RAM within a portable communication device corresponding to laptop, PDA, handheld, or the like [Par. 0037]; the system uses temporary memory space provided by the NV-RAM used for the duration of the operational transaction and critical data space [Par. 0016; 0031].

With respect to claims 2, 8, 11, 11, and 20 Nelson disclose function requests to include a request allocating or deallocating memory space, opening or closing files or data, and reading, writing, resizing, and moving of heap blocks within NV-RAM memory [Par. 0039 & 0038].

With respect to claims 5, 12-13, and 16-17, Nelson discloses the communication device selected laptop, PDA, handheld, or the like) that may communicate with the gaming machine by either wireless or wireline communications [Par. 0037, Fig. 8B].

With respect to claim 9, Nelson discloses billing a subscriber using the communication device [Par. 0034].

With respect to claim 19, Nelson's system discloses new game code be transmitted from a remote computing device (i.e., workstation, server, or the like) or by a portable device (i.e., laptop, PDA, handheld, or the like) that may communicate with the gaming machine, and such request or signal may be transmitted wirelessly, the computing device to include wireless devices such as PDA, handheld devices [Par. 0037-0038].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 3-4, 7, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0073497 (Nelson).

With respect to claim 4, Nelson fails to specifically teach java heap initially shipped with the communication device. However, the examiner takes OFFICIAL NOTICE that java heap shipped initially with the communication is of the general principle of the communication device such as hand held devices. Therefore it would have been obvious to require a larger java heap than the java heap initially shipped in order to be able to run updated application downloaded to the portable communication device.

With respect to claims 3, 7, and 18, Nelson fails to specifically teach reallocating memory between FDI blocks and DAV space. However, such feature is of a general principle of the communication device such as hand held devices. Therefore it would have been obvious to require a larger java heap than the java heap initially shipped in order to be able to run updated application downloaded to the portable communication device..

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (571) 272-4178. The examiner can normally be reached on Mon, Tue-Fri (8:00A to 5:30P).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (571) 272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pierre-Michel Bataille
Primary Examiner
Art Unit 2186